

## § 37.630

participants' other research and development activities (*e.g.*, activities supported by the participants themselves or by non-Federal sponsors).

(2) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations. You are responsible for ensuring that provisions in the award document address any requirements that result from authorizations and appropriations.

### **§ 37.630 Must I require a for-profit firm to use Federally approved indirect cost rates?**

In accordance with the general policy in § 37.605, you must require a for-profit participant that has Federally approved indirect cost rates for its Federal procurement contracts to use those rates to accumulate and report costs under an expenditure-based TIA. This includes both provisional and final rates that are approved up until the time that the TIA is closed out. You may grant an exception from this requirement if there are programmatic or business reasons to do otherwise (*e.g.*, the participant offers you a lower rate). If you grant an exception, the participant must accumulate and report the costs using an accounting system and practices that it uses for other customers (*e.g.*, its commercial customers). Also, you must document the reason for the exception in your award file.

### **§ 37.635 What cost principles do I require a nonprofit participant to use?**

So as not to force financial system changes for any nonprofit participant, your expenditure-based TIA will provide that costs to be charged to the research project by any nonprofit participant must be determined to be allowable in accordance with:

(a) OMB Circular A-87,<sup>2</sup> if the participant is a State or local governmental organization.

<sup>2</sup>Electronic copies may be obtained at Internet site <http://www.whitehouse.gov/OMB>. For paper copies, contact the Office of Management and Budget, EOP Publications, 725 17th St. NW., New Executive Office Building, Washington, DC 20503.

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(b) OMB Circular A-21,<sup>3</sup> if the participant is an institution of higher education.

(c) 45 CFR part 74, appendix E, if the participant is a hospital.

(d) OMB Circular A-122, if the participant is any other type of nonprofit organization (the cost principles in 48 CFR parts 31 and 231 are to be used by any nonprofit organization that is identified in Circular A-122 as being subject to those cost principles).

### **§ 37.640 Must I include a provision for audits of for-profit participants?**

If your TIA is an expenditure-based award, you must include in it an audit provision that addresses, for each for-profit participant:

(a) Whether the for-profit participant must have periodic audits, in addition to any award-specific audits, as described in § 37.645. Note that the DCAA or the Office of the Inspector General, DoD (OIG, DoD), can provide advice on the types and scope of audits that may be needed in various circumstances.

(b) Whether the DCAA or an independent public accountant (IPA) will perform required audits, as discussed in § 37.650.

(c) How frequently any periodic audits are to be performed, addressed in § 37.655.

(d) Other matters described in § 37.660, such as audit coverage, allowability of audit costs, auditing standards, and remedies for noncompliance.

### **§ 37.645 Must I require periodic audits, as well as award-specific audits, of for-profit participants?**

You need to consider requirements for both periodic audits and award-specific audits (as defined in § 37.1325 and § 37.1235, respectively). The way that your expenditure-based TIA addresses the two types of audits will vary, depending upon the type of for-profit participant.

(a) For for-profit participants that are audited by the DCAA or other Federal auditors, as described in §§ 37.650(b) and 37.655, you need not add specific requirements for periodic audits because the Federal audits should be sufficient to address whatever may be needed.

<sup>3</sup>See footnote 2 to § 37.635(a).